

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG**

CONNIE F. HARRIS,

Plaintiff,

v.

**CIVIL ACTION NO. 3:06-CV-94
(BAILEY)**

**MICHAEL J. ASTRUE,
COMMISSIONER OF SOCIAL SECURITY,**

Defendant.

JUDGMENT ORDER

By Standing Order entered on March 24, 2000, this action was referred to United States Magistrate Judge John S. Kaull for submission of proposed report and a recommendation ["R & R"]. Magistrate Judge Kaull filed his R & R on April 3, 2007 [Doc. 21]. In that filing, the magistrate judge recommended that this Court deny Defendant's Motion for Summary Judgment [Doc. 20] and grant in part Plaintiff's Motion for Summary Judgment or, in the Alternative, Motion to Remand [Doc. 18] by reversing the Commissioner's decision under sentence four of 42 U.S.C. §§ 405 (g) and 1383 (c) (3), with a remand of the cause to the Commissioner for further proceedings consistent with its Recommendation.

The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. ***Thomas v. Arn***, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo* review and right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); ***Snyder v. Ridenour***, 889 F.2d 1363, 1366 (4th Cir. 1989); ***United States v. Schronce***, 727 F.2d 91, 94 (4th Cir.

1984). Here, objections to Magistrate Judge Kaull's R & R were due by April 17, 2007, pursuant to 28 U.S.C. § 636(b)(1) and Fed.R.Civ.P. 72(b). No objections have been filed.

The Court adopts the recommendations of Magistrate Judge Kaull. Accordingly, the Court hereby **DENIES** Defendant's Motion for Summary Judgment [Doc. 20] and **GRANTS in part** Plaintiff's Motion for Summary Judgment or, in the Alternative, Motion to Remand [Doc. 18], by reversing the Commissioner's decision under sentence four of 42 U.S.C. §§ 405 (g) and 1383 (c) (3), and **REMANDS** the cause to the Commissioner for further proceedings consistent with this Order. The Court hereby **ORDERS** that this matter be removed from the Court's docket.

The Clerk is directed to mail a certified copy of this Judgment Order to all counsel of record and Magistrate Judge Kaull.

DATED: May 17, 2007.

/s/ John Preston Bailey
JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE